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CONCORD, N.H.

Honorable John Pillsbury
House of Representatives
State House
Concord, New Hampshire

Dear Sir:

You have inquired if it is possible for the Commissioners of the Manchester Fire Department to establish a system of hours of duty less than seventy-two in number per week. In my opinion they have the necessary authority to take such action under existing statutes.

Attention is called to section 4-a of chapter 330 of the Laws of 1917 as inserted by section 1 of chapter 239 of the Laws of 1945, which reads as follows:

"Said commissioners shall establish and put into operation a system of hours of duty for the permanent members of the department so that the average weekly hours of any one of said members shall not exceed seventy-two in number."

To my knowledge this section has never been changed since its enactment in 1917, nor has it been construed by court decision. However, the language clearly indicates that the 72-hour average mentioned in that section established a maximum number of average work hours rather than fixing it as an unalterable work week period.

It is my conclusion that the Commissioners, in the reasonable exercise of their discretion, may establish such average work week hours as shall not exceed seventy-two.

Very truly yours,

Gordon M. Tiffany
Attorney General

CHE:FP